?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
%DATED: 06.03.2019
*CORAM
THE HON-BLE MR.JUSTICE N.KIRUBAKARAN
and
THE HON-BLE MR.JUSTICE S.S.SUNDAR

+W.P.(MD) No.2909 of 2019

#K.K.Ramesh
... Petitioner
~vs~

$1.Union of India,
rep. by its Secretary,
Ministry of Urban Development,
Nirman Bhawan, C~ Wing,
Dr.Maulana Azad Road,
New Delhi ? 110 011.

2.Union of India,
rep. by its Secretary,
Ministry of Water Resources,
No.412, Shram Shakti Bhawan,
Rafi Marg, New Delhi ? 110 001.

3.The State of Tamilnadu,
rep. by its Secretary,
Public Works Department and
Water Resources Organization,
Fort St. George, Secretariat,
Chennai ? 600 009.

4.The Executive Engineer,
Public Works and Water Resources Organization,
Periyar Vaigai Basin Project,
Thallakulam, Madurai ? 2.

5.The Regional Chief Engineer,
Water Resources Organization,
Thallakulam, Madurai ? 2.

6.The District Collector,
Madurai District,
Madurai.

7.The Commissioner,
Madurai Corporation,
Arignar Anna Maaligai,

Madurai.

8.The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Anna Salai, Guindy,
Chennai ? 32.

9.D.Gurusamy
10.M.Nagarajan @ Rajan
(R8 is suo motu impleaded vide order
dated 11.02.2019
R9 & R10 are impleaded vide order
dated 27.02.2019 in WMP(MD) No.
2879 and 3447/2019) ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to instruct the respondents 5 to 7 to stop the ongoing work of laying Road on Vagai River banks in the name of Madurai Smart City since the process of laying road is affecting the size of Vagai River by considering the petitioner-s representation dated 01.12.2019.

!For Petitioner : Mr.K.K.Ramesh Party in person

^For Respondents : Mr.Rajendran, for R1
Mr.Irulappan, for R2
Mr.A.Muthukaruppan, AGP for RR3 to 6
Mr.K.Govindarajan, for R7
Mr.Vasanthakumar for R8

:ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition is filed for issuing a writ of mandamus, directing the first respondent to instruct the respondents 5 to 7 to stop the ongoing work of laying Road on Vagai River banks in the name of Madurai Smart City since the process of laying road is affecting the size of Vagai River by considering the petitioner-s representation dated 01.12.2019.
2.The petitioner is a small business man and claims to be a social activist. The case of the petitioner is that entire Vaigai River should be protected as it runs through 5 District covering 257 km. It is his grievance that by a recent project undertaken by the local body viz., Madurai Corporation, in the Vaigai River at a stretch from Rajamill road to Kuruvikaran Salai, the Corporation proposed to lay a road along the bund of the river which is an encroachment in to the Vaigai River. Since Madurai Corporation is laying the road inside the Vaigai River on both sides of river banks, it is stated that

the breadth, length and width of Vaigai River gets reduced and that it would be against public interest. Since the reduction of width is upto a stretch of about 3 km, it is stated that it would be in public interest to protect the full width of Vaigai River, so that the river will serve public to irrigate and for drinking and other purposes.

3.The petitioner who appeared in person submitted few photographs to show that the proposed construction would definitely fall within the boundary of Vaigai River and that such construction without permission of Public Works Department is illegal. This Court by order dated 11.02.2019 directed Madurai Corporation to answer certain queries as to the steps take by the Corporation to prevent pollution. They are as follows:

?a)Whether the Corporation has assessed the volume of sewage let in to Vaigai River?

b)Whether any sewage treatment plants have been constructed at various points?

c)If it is so, how many treatment plants have been constructed to treat the entire sewage that is being let into the river?

d) What is the capacity of treatment plant?

e)How may sewage treatment plants are required and what is the total capacity of the sewage treatment plants required?

f)What are all the steps taken to prevent the private parties as well as educational institutions and commercial institutions from letting in sewage/used water into River.

g)Whether the treated sewage is free from pollutants? Is it examined by the Pollution Control Board?

h)Whether the Pollution Control Board analysed the treated sewage?

i)What are all the actions taken against the institutions/departments and the parties who are letting in sewage into the water?

j)Whether the Corporation has found out the points of sewage letting in Vaigai River??

The Commissioner of Madurai Corporation has filed a report. The said report gives the following details:

?1&2.The details of Sewage Treatment Plant

a.125MLD capacity Sewage treatment plant at Avaniyapuram (Near Vellakkal)

b.45.7MLD capacity Sewage treatment plant at Sakkimangalam

3.Total Quantity of Sewage at Madurai is 68 MLD.

4.The Existing sewage treatment plaints are capable of treating all the sewage.

5.Notices are issued to the residents who let the sewage into streams. Also Madurai City Municipal Corporation has completed 9 no-s of work to prevent the flow of sewage into Vaigai river and channels. Also blocked the outlets of sewage linked to channels from the residences and UGS connection were provided.

6.Channels connected to Vaigai River

a.Off take from Vaigai River

i)Avaniyapuram Channel

ii)Chinthamani Channel

(iii)Anuppanadi Channel
(iv)Panaiyur Channel
v)Sottathatti Channel
b.Flowing to Vaigai River
i)Panthalkudi Channel
7.List of Channels in which sewage let out and remedy to stop (Vaigai River).
a)South of Vaigai River
i)Anuppanadi Channel
ii)Panaiyur Channel
iii)Sottathatti Channel
b)North of Vaigai River
i)Panthalkudi Channel
ii)Vandiyur Channel
iii) Melur Roadside Channel
Modernization and suitable capacity pumping at pumping station and maintenance of sewage network.

The following works are completed.
I. the leakage in pumping main and construction of lift well at Vaigai Kamarajar bridge near Guru Theatre.
II. Replacement of UGD pipe near Alwarpuram junction to stop the flow of sewage in Panthalkudi Channel.
III.Construction of concrete retaining wall in south bed of Vaigai river (near PSA fish stall) to stop the flow of sewage in Panaiyur channel.
IV.From Ismailpuram 4th & 7th streetm linking of sewer line to Ismailpuram 9th street and flow of sewer to Vaigai river is prevented.
V.From Ismailpuram 19th street to Vengatachalapathi Ayyangar street, UGS connections were provided and linked to head pumping station well at Santhaipettai and the drainage flow in Vaigai river is stopped in this area.
VI.For Ismailpuram area a lift station is provided and linked to Main pumping station, Santhaipettai thus the flow to Panaiyur channel was stoped.
VII.In Petchiamman Padithurai junction, manhole leakage was stopped and 130m length of damaged pipeline is replaced to prevent the flow of sewage to Vaigai river.
VIII.Along Vaigai river bank south side road the UGS connectivity to Santhaipettai Main Pumping Station is provided and draining of sewage in Vaigai river area was stopped.
IX.Along the north bed of river Vaigai from Vilangudi to Thathaeri railway over bridge, the sewage flow to river Vaigai was blocked and new underground service connections were provided to residences in the river bed adjoining area.

The following works is proposed.
I.The DPR for the Construction of 2 MLD sewage treatment plant at Alwarpuram area near vaigai river bed in Panthalkudi channel is in approval stage.
8.The property belongs to Public Works Department and maintenance of 11 nos. of channels is in the control of Madurai Corporation.
9.List of Project to be taken.
River Front Development of VAIGAI RIVER ? From Raja Mill Road to Kuruvikaran Salai both sides of Madurai Corporation under Smart City Mission.

10.Details of the Project
Vaigai River is the Major River flowing through Madurai City. Rivers are envisaged as transitional space between the built tenement and natural water coarse ecology. Due to the rapid development and urbanization, the River Front Development in River Vaigai should be protected through all types of Infrastructures and to provide sustainable environmental improvement. The following improvement works are proposed by Madurai Corporation under Smart City Mission.
Counter ? fort retaining wall on both sides of the river bank from Raja mill road to Kuruvikaran Salai to a stretch of nearly 3km length are to be constructed. The existing river bank road to be maintained and pedestrian pathway is to be provided without any reduction in width of the river Vaigai. Along these roads greenery should be developed. Necessary garbage collection system is to be followed in the river banks strictly. Parks also should be established in the river bank side in the identified area. Aesthetic illuminations are also planned along the river bank to glow pleasantly. Required sanitation amenities are also to be provided in the river bank area. Two numbers of check dam across the river Vaigai is also to be constructed by Public Works Department through Madurai Smart City Funds in the following location.
a.Upstream side of Yanaikkal bridge (L.S. 1050 metre from the Raja mill road).
b.Upstream side of Kuruvikaran Salai bridge (L.S.2560 metre from the Raja mill road).

4.The learned counsel appearing for the Madurai Corporation filed a typed set containing the details of project known as River Front Development in Vaigai River at the cost of Rs.82.06 crores that has been conceived by the local body with the funds they are getting under Smart City scheme announced by the Central Government. It is also submitted that by communication dated 24.07.2018, the Executive Engineer, WRO/PWD, Periyar Vaigai Basin Division, Madurai has granted permission for the project. The permission granted by the PWD to the local body would reveal that the project undertaken by the local body includes several components namely, development of roads and pedestrian pathways, provision of compound wall/fencing, development of walk ways, green belt and provision of dust bins, development of platform and steps and trees seating and development of parks with children area, lighting arrangements and provision of E.Toilets and R.O.plants. The conditions on which the permission was granted reveals that the river waterway should not be affected by the project conceived by the local body and that the width of the river should not be reduced for development purpose and the width should not be lesser than 220m at any place. It was also indicated that the project should ensure that the proposed area in which the Public Works Department permitted the local body to use for the purpose should be maintained free from encroachment.
5.The learned Additional Government Pleader representing the Public Works Department has also submitted that the Public Works Department has given permission as per the communication dated 24.07.2018 and that the works undertaken by the local body only as per the permission that was granted to the local body by the Public Works Department. The project conceived by the local body is only to develop and beautify the City by utilising the funds

sanctioned by the Central Government under Smart City Scheme. The project conceived by the local body gives clear indication that it was in public interest and no vested interest is involved in this project. It is also seen that the traffic congestion and other public convenience has also been taken care of by the project. Sufficient safety protection to the existing river also will be taken care of by implementing the project.

6.In such circumstances, by implementing the project, the roads would be formed and it will prevent the encroachment by any third parties into the river and also prevent the garbage being dumped into the river. As seen from the communication dated 26.07.2018, the Public Works Department and its officials have to monitor the project and the implementation of the project, so that the public purpose and convenience assured by the project cannot be compromised under any circumstances and for any reason in future. This Court is fully convinced that the implementation of the project is required in public interest. The report of the Commissioner and the assurances given by Corporation shall be followed in future and there will be no further reduction of with of river in future.

7.In view of the above, this petition is closed. No costs.

To

The District Registrar (Societies),
Tenkasi, Tirunelveli District.